

REMARKS

In support of allowance, applicants have the following comments. Claims 1-5 and 7 remain pending in this application.

I. Rejection of Claims Under Section 103

The examiner has rejected pending claims 1-5 and 7 based on the following combination under Section 103:

- A. Claims 1, 4, 5 and 7 (**Neri et al**, Usuki et al and Rees)
- B. Claims 1, 2, 5, 6 and 7 (Hastie, Usuki et al, Rees and **Neri et al.**)
- C. Claim 2 (**Neri et al.**, Usuki et al, Rees and Williams)
- D. Claim 3 (**Neri et al.**, Usuki et al, Rees and Narita et al.)
- E. Claim 4 (**Neri et al.**, Usuki el, Rees, Durand, Gibbs et al.)

The examiner has relied on the citation of US 2002/0131062 (Neri et al.) in each of the above rejections for the teaching of a three-dimensional printing onto a three dimensional object using heater elements in a substantially U-shaped configuration.

The patent rules provide for the following:

37 CFR 1.130 Affidavit or declaration to disqualify commonly owned patent or published application as prior art.

(a) When any claim of an application or a patent under reexamination is rejected under 35 U.S.C. 103 on a U.S. patent or U.S. patent application publication which is not prior art under 35 U.S.C. 102(b), and the inventions defined by the claims in the application or patent under reexamination and by the claims in the patent or published application are not identical but are not patentably distinct, and the inventions are owned by the same party, the applicant or owner of the patent under reexamination may disqualify the patent or patent application publication as prior art. The patent or patent application publication can be disqualified as prior art by submission of:

(1) A terminal disclaimer in accordance with § 1.321(c); and

(2) An oath or declaration stating that the application or patent under reexamination and patent or published application are currently owned by the same party, and that the inventor named in the application or patent under reexamination is the prior inventor under 35 U.S.C. 104.

Cited Reference US 2002/0131062 (Neri et al.) was published on September 19, 2002 as a published application and then published again as U.S. Patent No. 7,137,426. The effective filing date of the present application is December 4, 2002, which is less than one year after the September 19, 2002 publication date of the Neri et al. reference. Therefore, the Neri et al. reference is a reference under Section 102(e). Therefore, the Neri et al. reference can be disqualified by the applicant herein under Rule 1.130 because it is not a reference under Section 102(b).

Attached hereto, Applicants have submitted herewith an affidavit under Rule 1.130 that states that common inventor Kenneth Neri is inventor of subject matter in both the cited Neri et al. reference and the instant application Serial No. 10/728,048, namely the subject matter that is relied by the examiner to maintain the rejections under Section 103 above. The required terminal disclaimer as to the cited Neri et al. (SN 10/097,717, now U.S. Patent No. 7,137,426) was previously submitted in this application, namely, with the amendment dated November 13, 2006.

The present application and the Neri et al. reference are commonly owned and the requisite terminal disclaimer and inventor affidavit have been submitted under Rule 1.130. Therefore, applicant submits that Neri et al. does not qualify as prior art.

Because the remaining prior art fails to teach the required subject matter of three-dimensional printing onto a three dimensional object using heater elements in a substantially U-shaped configuration, all of the rejections under Section 103 must be withdrawn. The resultant combinations of prior art references fail to teach applicants' invention and do not render it obvious. Therefore, the Applicant respectfully requests reconsideration of pending claims 1-5 and 7 and favorable action on the merits.

II. Conclusion

In view of the above, Applicants submit that pending claims 1-5 and 7 are now in condition for allowance. Reconsideration of the Rejections are requested. Allowance of claims 1-5 and 7 at an early date is solicited.

If an extension of time is required for timely submission of this response, Applicant hereby petitions for an appropriate extension of time and the Office is authorized to charge Deposit Account 02-0900 for the appropriate additional fees in connection with the filing of this response.

The Examiner is invited to telephone the undersigned should any questions arise.

Respectfully submitted,

/david r. josephs/

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